

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

_____ AUTO-OWNERS INSURANCE COMPANY,)	
)	
Plaintiff,)	
)	
v.)	Civ. 10-4067
)	
EQUITY HOMES, INC., FAIR HOUSING OF)	
THE DAKOTAS, AND THE UNITED STATES)	
OF AMERICA (DEPARTMENT OF HOUSING)	
AND URBAN DEVELOPMENT),)	
)	
Defendants.)	
_____)	

**DEFENDANT UNITED STATES AND U. S. DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT'S MOTION TO DISMISS**

Pursuant to Fed. R. Civ. P. 12(b)(6) and (b)(1), the United States and its agency, Defendant Department of Housing and Urban Development (hereinafter referred to as "HUD"), hereby move the Court for an order dismissing HUD and the United States as Defendants from the Complaint in this matter on the grounds of failure to state a claim upon which relief may be granted under F.R.Civ.P. 12(b)(6) and for lack of subject matter jurisdiction under F.R.Civ.P.

12(b)(1). In support of this dispositive motion, HUD and the United States submit the attached memorandum.

Respectfully submitted this 9th day of August, 2010.

BRENDAN V. JOHNSON
United States Attorney

/s/ Jan L. Holmgren
Jan Holmgren
Assistant U.S. Attorney
PO Box 2638
Sioux Falls, SD 57101-2638
605-357-2343 (voice); 605-4402(fax)
jan.holmgren@usdoj.gov

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that on this the 9th day of August, 2010, she served upon the parties a true and correct copy of the foregoing Motion To Dismiss Defendant HUD and the United States and brief in support thereof by electronic notice.

/s/ Jan L. Holmgren

